

*E
Cmt*

17
69. A method as defined in claim 67 wherein the micro particles possess an average unidimensional particle size of 100 microns or more.

18
70. A method as defined in claim 69 wherein the composition is injected into a submucosal space selected from the bladder~~o~~ urethral junction, the esophageal-gastric junction and the gastric~~o~~ pyloric junction using a plurality of spaced injection sites.

19
71. A method as defined in claim 68 wherein the composition is injected under the intravesical portion of the ureter using a plurality of spaced injections.

20
72. A method as defined in claim 69 wherein the composition is injected under the intravesical portion of the ureter using a plurality of spaced injections.

GMS REMARKS

In accordance with the above amendments, claims 31-52 have been canceled, without prejudice, in favor of a new slate containing claims 53-72. While no claim presently stands allowed, the Examiner has indicated that claims 37, 38, 47 and 51 stand objected to as being dependent upon a rejected base claim but would be otherwise allowable if rewritten in independent form including all limitations of the base claim and any intervening claims.

In this regard, claims 53-65 are now believed to be of a scope that would be commensurate with that deemed allowable by the Examiner with respect to the rewriting of the claims previously objected to. In this regard, claim 53 recites claim 31 with the

additional limitations of the compatible physiological vehicle comprised polyvinyl pyrrolidone. This limitation has likewise been included in claim 58 (which represents a rewritten claim 44) and claim 62 (which represents a rewritten claim 48). Claim 66 requires the vehicle to be one which is eliminated from the injection site in addition to being non-retentive.

Applicants believe with respect to the allowability of the present claims, that previous remarks apply to the combination of Politano and Politano et al in view of Ersek present a fair interpretation of the patent art and the present invention in view of that art.

The fact is that is only through hindsight that one can conclude that the present invention could possibly have been obvious in view of what went before. The fact is that the Teflon beads of Politano and Politano et al are quite hard and not readily receptive to remaining to deal with long-term augmentation of soft tissues; and while Ersek et al recognize that softer, rougher textured particles could be successfully used for cosmetic soft tissue augmentation in certain areas, it was far from obvious that such particulate matter could successfully treat either urinary incontinence or gastric reflux. Success with such a technique in one type of soft tissue does not necessarily predict behavior in other areas of a mammalian body. This is particularly the case where the goal is to affect muscular control rather than fatty tissue augmentation.

It has been only through extended experimentation that it has more recently shown that not only immediate but relatively long-term relief with a very high success rate can be achieved.

Applicants believe their claims presently represent an inventive step over what has gone before in the art and respectfully request reconsideration and allowance of the present claims.

Respectfully submitted,

HAUGEN AND NIKOLAI, P.A.

C. G. Mersereau

C. G. Mersereau
Registration No. 26205
Attorney for Applicant(s)
900 Second Avenue South
820 International Centre
Minneapolis, Minnesota 55402-3325
Telephone: (612) 339-7461